

# Exhibit 13

**In the Matter Of:**

**NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY**

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**DEPOSITION OF FAYE MENTER**

*February 25, 2016*

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NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY  
DEPOSITION OF FAYE MENTER on 02/25/2016

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 -----x

4 IN RE: NEW ENGLAND COMPOUNDING:

5 PHARMACY, INC. PRODUCTS :MDL No. 2419

6 LIABILITY LITIGATION :Dkt 1:13-MD-2419

7 -----x

8 February 25, 2016

9 Hagerstown, Maryland

10 DEPOSITION UPON WRITTEN QUESTIONS OF:

11 FAYE MENTER,

12 a witness, called for examination by counsel for the  
13 Defendant Box Hill Surgery Center, pursuant to notice  
14 and agreement of the parties, at Cumberland Valley  
15 Surgery Center, 1110 Professional Court, Hagerstown,  
16 Maryland 21740, beginning at approximately 11:00  
17 a.m., before Lisa R. Thomas, a Notary Public in and  
18 for the State of Maryland, when were present on  
19 behalf of the respective parties:  
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21  
22  
23  
24  
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<p style="text-align: right;">Page 6</p> <p>1 your present position at Cumberland Valley Surgery 2 Center?</p> <p>3 A. High school diploma from Williamsport 4 High School, 1977; 1980 through 1995 scrub 5 technologist at Martinsburg City Hospital in West 6 Virginia. 1989 I passed the National Certification 7 as a Surgical Technologist. 1995 through 2008 I was 8 a surgical technologist at Frederick Surgery Center 9 in Frederick, Maryland. 2008 through 2011 a surgical 10 technologist at Parkway Surgery Center in Hagerstown, 11 Maryland. 2011 to present a surgical technologist and 12 materials manager at CVSC in Hagerstown, Maryland.</p> <p>13 Q. Please provide a general description of 14 your facility, that is, the type of practice, number 15 of physicians, etcetera?</p> <p>16 A. CVSC is an out patient surgery center 17 located in Hagerstown, Maryland; approximately 18 twenty-four physicians perform a variety of surgical 19 and other procedures at Cumberland Valley Surgery 20 Center, including gastroenterology, general surgery, 21 oral surgery, orthopaedic surgery, podiatry, and pain 22 management.</p> <p>23 Q. By virtue of your role at Cumberland 24 Valley Surgery Center, are you familiar with 25 Cumberland Valley Surgical Center's medication</p>	<p style="text-align: right;">Page 8</p> <p>1 analgesic, Betamethasone, epidural steroid injection, 2 and omnipaque, a dye, from NECC, between 2010 and 3 2012. Prior to the CDC recall of the NECC 4 medications.</p> <p>5 Q. Prior to purchasing medications from 6 NECC, did a representative of Cumberland Valley 7 Surgery Center perform an in-person inspection of 8 NECC's compounding facility? If so, please (1) state 9 when, (2) describe what was done, and what was found; 10 and, (3) state whether, following the inspection, 11 Cumberland Valley Surgery Center purchased 12 medications from NECC?</p> <p>13 A. Based on my personal knowledge, and 14 after investigation, I have been unable to identify 15 any evidence that CVSC performed an in- person 16 inspection of NECC's compounding facility.</p> <p>17 Q. Prior to purchasing medications from 18 NECC, did Cumberland Valley Surgery Center conduct 19 research into whether NECC had recalled any 20 medications made by NECC? If so, please (1) describe 21 the research conducted, (2) describe the results, and 22 (3) state whether, following the drug recall 23 research, Cumberland Valley Surgery Center purchased 24 medications from NECC?</p> <p>25 A. Based on my personal knowledge, and</p>
<p style="text-align: right;">Page 7</p> <p>1 purchasing practices?</p> <p>2 A. Yes.</p> <p>3 Q. Please describe the basis of your 4 familiarity with Cumberland Valley Surgery Center's 5 medication purchasing practices, e.g., is it from 6 personal knowledge, have you spoken with persons at 7 Cumberland Valley Surgical Center, or viewed 8 documents?</p> <p>9 A. I'm personally familiar with the 10 medication purchasing practices here at CVSC from 11 December 2011, through the present. I have also 12 reviewed Cumberland Valley Surgery Center's purchase 13 orders to learn the medication purchasing practices 14 in 2010.</p> <p>15 Q. For the years 2010 through 2012, did 16 Cumberland Valley Surgery Center purchase medications 17 offered for sale by Medical Sales Management and/or 18 New England Compounding Center, and made by the New 19 England Compounding Center (hereinafter "NECC")?</p> <p>20 A. Yes.</p> <p>21 Q. Please describe the timeframes that 22 Cumberland Valley Surgery Center purchased 23 medications from NECC and what medications were 24 purchased?</p> <p>25 A. CVSC purchased Lipivocane, which is an</p>	<p style="text-align: right;">Page 9</p> <p>1 after investigation, I have been unable to identify 2 any evidence that CVSC conducted research into 3 whether NECC had recalled any medication.</p> <p>4 Q. Prior to purchasing medications from 5 NECC, did Cumberland Valley Surgery Center conduct 6 research into whether NECC had ever been named as a 7 defendant in a products liability lawsuit? If so, 8 please (1) describe the research conducted, (2) 9 describe the results, and (3) state whether, 10 following the previous lawsuit research, Cumberland 11 Valley Surgery Center purchased medications from 12 NECC?</p> <p>13 A. Based on my personal knowledge, and 14 after investigation, I have been unable to identify 15 any evidence that CVSC conducted research regarding 16 NECC's involvement in products liability litigation.</p> <p>17 Q. Prior to purchasing medications from 18 NECC did Cumberland Valley Surgery Center request 19 information form the Massachusetts Board of 20 Registration and Pharmacy, "the Board," about 21 previous disciplinary actions taken by the Board 22 against NECC? If so, please (1) describe what 23 information was provided by the Massachusetts Board 24 of Registration in Pharmacy and (2) state whether, 25 following the request, Cumberland Valley Surgery</p>



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<p style="text-align: right;">Page 10</p> <p>1 Center purchased medications from NECC?</p> <p>2 A. Based on my personal knowledge, and</p> <p>3 after investigation, I have been unable to identify</p> <p>4 any evidence that CVSC requested information from the</p> <p>5 Massachusetts Board of Registration and Pharmacy</p> <p>6 about previous NECC's disciplinary actions.</p> <p>7 Q. Prior to purchasing medications from</p> <p>8 NECC did Cumberland Valley Surgery Center submit a</p> <p>9 Freedom of Information Act request to the FDA for</p> <p>10 documentation of disciplinary actions and/or warnings</p> <p>11 issued to NECC by the FDA? If so, please (1)</p> <p>12 describe what information was provided by the FDA,</p> <p>13 and (2) state whether following the request</p> <p>14 Cumberland Valley Surgery Center purchased</p> <p>15 medications from NECC?</p> <p>16 A. Based on my personal knowledge, and</p> <p>17 after investigation, I have been unable to identify</p> <p>18 any evidence that CVSC submitted a Freedom of</p> <p>19 Information Act request to the FDA regarding NECC.</p> <p>20 Q. Prior to purchasing medications from</p> <p>21 NECC, did Cumberland Valley Surgery Center search the</p> <p>22 FDA website for information about NECC? If so,</p> <p>23 please (1) describe what information was obtained</p> <p>24 from the FDA website, and (2) state whether following</p> <p>25 the requests Cumberland Valley Surgery Center</p>	<p style="text-align: right;">Page 12</p> <p>1 place prohibiting purchase from compounding</p> <p>2 pharmacies?</p> <p>3 A. No.</p> <p>4 Q. Please describe any representations</p> <p>5 Medical Sales Management and/or NECC made to</p> <p>6 Cumberland Valley Surgery Center prior to Cumberland</p> <p>7 Valley Surgery Center purchasing medications from</p> <p>8 NECC?</p> <p>9 A. Based on my personal knowledge, and</p> <p>10 after investigation, I have been unable to identify</p> <p>11 any evidence that Medical Sales Management and/or</p> <p>12 NECC's made representations to CVSC, prior to CVSC</p> <p>13 purchasing medications from NECC.</p> <p>14 Q. Nineteen. I'm going to start saying the</p> <p>15 number just for my transcript purposes.</p> <p>16 MS. HITZELBERGER: Please</p> <p>17 Q. Okay. In deciding to purchase</p> <p>18 medications from NECC did Cumberland Valley Surgery</p> <p>19 Center take into consideration any representations</p> <p>20 from Medical Sales Management and/or NECC, regarding</p> <p>21 its ability to provide a consistent supply of safe</p> <p>22 medications?</p> <p>23 A. Based on my personal knowledge, and</p> <p>24 after investigation, I have been unable to identify</p> <p>25 any evidence that CVSC took into consideration any</p>
<p style="text-align: right;">Page 11</p> <p>1 purchased medications from NECC?</p> <p>2 A. I'm sorry I have lost my place that was</p> <p>3 fifteen?</p> <p>4 Q. Yes.</p> <p>5 A. Prior to purchasing medications from</p> <p>6 NECC -- I'm sorry, I was reading what you just read.</p> <p>7 Sorry.</p> <p>8 Based on my personal knowledge, and</p> <p>9 after investigation, I have been unable to identify</p> <p>10 any evidence that CVSC searched the FDA website for</p> <p>11 information about NECC.</p> <p>12 Q. Prior to purchasing medications from</p> <p>13 NECC, did Cumberland Valley Surgery Center review</p> <p>14 transcripts from, or summaries of, any US</p> <p>15 Congressional hearings on compounding pharmacies; if</p> <p>16 so, following the review, did Cumberland Valley</p> <p>17 Surgery Center purchase medications from NECC?</p> <p>18 A. Based on my personal knowledge, and</p> <p>19 after investigation, I have been unable to identify</p> <p>20 any evidence that CVSC reviewed transcripts from, or</p> <p>21 summaries of, any US Congressional hearings on</p> <p>22 compounding pharmacies and/or NECC.</p> <p>23 Q. At the time of Cumberland Valley Surgery</p> <p>24 Center's purchase from NECC, did Cumberland Valley</p> <p>25 Surgery Center have a policy and/or procedure in</p>	<p style="text-align: right;">Page 13</p> <p>1 representations from Medical Sales Management and/or</p> <p>2 NECC, regarding its ability to provide a consistent</p> <p>3 supply of safe medications.</p> <p>4 Q. Twenty. Prior to purchasing from NECC</p> <p>5 did Cumberland Valley Surgery Center research</p> <p>6 compounding pharmacies in CDC literature, USA Today,</p> <p>7 FDA literature, or on YouTube? If so, please (1)</p> <p>8 describe the research, and (2) state whether</p> <p>9 following the research Cumberland Valley Surgery</p> <p>10 Center purchased medications from NECC?</p> <p>11 A. Based on my personal knowledge, and</p> <p>12 after investigation, I have been unable to identify</p> <p>13 any evidence that CVSC conducted research of</p> <p>14 literature or YouTube prior to purchasing medications</p> <p>15 from NECC.</p> <p>16 Q. Twenty-one. To the best of your</p> <p>17 knowledge did any of Cumberland Valley Surgery</p> <p>18 Center's patients experience an injury as a result of</p> <p>19 Cumberland Valley Surgery Center purchase and use of</p> <p>20 medications from NECC, which were administered to</p> <p>21 Cumberland Valley Surgery Center's patients?</p> <p>22 MS. HITZELBERGER: Objection. This</p> <p>23 question is not relevant to the claims or defenses of</p> <p>24 the parties, and it is not reasonably calculated to</p> <p>25 lead to the discovery of admissible information. You</p>



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